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4 AT SEATTLE
5 CLERK U.S. DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 By DEPUTY

8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

No 404466
10 JEAN BUSKIN, PAUL ROGERS,
11 MYRTISE JOHNSON, VINCE
12 HALLORAN, JEANETTE WALLIS,
13 JANET MUNGER, and MARK CANFIELD,
14 on their own behalf and on behalf of the class
15 they seek to represent.

16 Plaintiffs

17 vs.

18 CITY OF SEATTLE, PAUL
19 SCHELL, NORM STAMPER, JOHN DOE
20 #1, through JOHN DOE #11,
21 Defendants

CV 01 1941 P
No

COMPLAINT FOR DAMAGES

WTO SUIT

CLASS ACTION

16 COME NOW the plaintiffs, JEAN BUSKIN, PAUL ROGERS, MYRTISE JOHNSON,
17 VINCE HALLORAN, JEANETTE WALLIS, JANET MUNGER, and MARK CANFIELD,
18 on their own behalf and on behalf of the class they seek to represent bring this action for illegal
19 practices of the defendants, by and through their attorney John Scannell, and seeking damages
20 against the above name defendants: CITY OF SEATTLE, PAUL SCHELL, NORM
21 STAMPER, JOHN DOE #1, through JOHN DOE #11,

22 The civil claims include offenses committed under color of law resulting in a deprivation of
23 rights secured by the Constitution and laws of the United States of America



25 CV 01-1941 #1

1 **I. PARTIES, JURISDICTION, VENUE**

2 This action is brought under 42 U.S C §1983 (Civil Rights Act of 1871) relating to the
3 plaintiffs' exercise of their rights under the Constitution of the United States

4 1. Plaintiff Jean Buskin is and was, at all times relevant hereto, a resident of the State of
5 Washington.

6 2. Plaintiff Verge Blanchard is and was, at all times relevant hereto, a resident of the State
7 of California.

8 3 Plaintiff Myrtise Johnson is and was, at all times relevant hereto, a resident of the State
9 of California.

10 4. Plaintiff Vince Halloran is and was, at all times relevant hereto, a resident of the State of
11 Washington

12 4. Plaintiff Jeanette Wallis is and was, at all times relevant hereto, a resident of the State of
13 Washington.

14 5. Plaintiff Janet Munger is and was, at all times relevant hereto, a resident of the State of
15 Washington.

16 6 Plaintiff Mark Canfield is and was, at all times relevant hereto, a resident of the State of
17 Washington.

18 7. The Defendant City of Seattle is a municipal corporation in the State of Washington and
19 is the employer of Paul Schell, Norm Stamper and the unknown Seattle Police Officers (John Doe
20 # 1 through John Doe #)

21 8. At all times pertinent to this complaint, the Defendant Paul Schell was the Mayor of the
22 City of Seattle, the Defendant Norm Stamper was the Chief of Police, the defendants John Doe #1
23 through # 11, were employees of the City of Seattle acting as police officers In doing the acts and
24 things hereinafter set forth, said Defendants were acting, in their respective capacities as stated,
25 under color of an Ordinance of the City of Seattle, State of Washington, namely, Seattle Municipal

Code 10.02, and a Statute of Washington, namely R.C.W. 38.52 et seq as well as other Statutes of Washington and ordinances of Seattle respectively

9 At all times relevant hereto each of the defendants was acting as agent of each of the other defendants

10. Jurisdiction is conferred on the court by virtue of 29 U.S.C §1331, §1334, §1343.

Venue in this district is appropriate pursuant to Title 28, United States Code, §1391, because the pertinent events took place in this district.

II. FACTS

11. During the week of November 29-December 3, 1999, the World Trade Organization (hereinafter referred to as "the W.T.O.") held meetings in downtown Seattle

12 Thousands of people gathered in the streets of Seattle peacefully to protest the policies of the W.T.O., contending that such policies are in conflict with United States laws protecting the environment, labor, and human rights.

13 During this period of time, the defendant City of Seattle sent police officers into the streets to monitor the demonstrations. The officers patrolled the streets, sometimes in full riot gear. On many occasions, the police chemical-gassed, pepper-sprayed, shot rubber bullets and concussion grenades at, beat with batons, and/or arrested numerous peaceful protesters, innocent bystanders and members of the media.

14. Batons as used by police during these demonstrations are dangerous weapons

15 Rubber Bullets and pellets as used by the police during these demonstrations are dangerous weapons

16 Pepper Spray is a dangerous weapon.

17. Chemical Gas, concussion grenades and their canisters as used by police in these demonstrations, are dangerous weapons

18. The City of Seattle on November 30, 1999, as part of a plan to silence the free speech activities of the plaintiff and others participating in the demonstrations, provided batons,

1 concussion grenades, rubber bullets, pepper spray, chemical gas and canisters decided
2 unnecessarily to mace, chemical gas, club, and shoot rubber bullets at unarmed and non-violent
3 demonstrators, and to arrest non-violent demonstrators in order to prevent them from
4 demonstrating and to deter others from demonstrating against the policies of the World Trade
5 Organization and against the actions of the police and city in stifling the right to free speech and
6 assembly. This plan included illegally closing off over 50 blocks in downtown Seattle to
7 demonstrations, banning the use of gas masks, imposing a general curfew over a much larger
8 section of downtown Seattle, and to arrest persons for otherwise disobeying orders issued by the
9 Mayor. Although the purpose of the plan was publicized as an attempt to stop violent protests, in
10 reality the plan served as a pretext for the defendants and others to punish the demonstrators for
11 embarrassing the mayor and other high public officials, to stifle dissent, and to end the lawful
12 attempts of the plaintiff and others in the class to bring attention to the wrongful political and
13 economic activities of the W.T.O. As part of this plan, the defendants unnecessarily planned to
14 arrest, chemical gas, club, mace, pepper spray, and shoot rubber bullets and concussion grenades at
15 non-violent unarmed demonstrators by issuing vague, inadequate, and unnecessary orders to
16 disperse.

17 19. The police patrolling the convention site acted like the trained soldiers of a **praetorian**
18 **guard**. Some were dressed in ninja armor, some were wearing Darth Vader style face shields, and
19 some wore gas masks. This gear was unnecessary and was worn in a manner to intimidate and
20 confront the demonstrators for exercising their rights under the First amendment to the United
21 States Constitution.

22 20. Without adequate warnings the police began dispersing chemical gases and shooting
23 concussion grenades into the crowd. The demonstration was non-violent and protected by the First
24 and Fourteenth Amendments to the U.S. Constitution.

1 21. As a result of the actions of November 30, Defendant Schell and others, instituted an
 2 "emergency order" which unlawfully set up a "no protest zone" in a block area to deny the
 3 demonstrators their constitutional rights to protest the activities of the WTO.

4 22. At approximately 1:00 p.m. on November 30, 1999, John Doe #1 and others were
 5 wearing full riot gear and were carrying shotguns when they approached Paul L. Rogers. John Doe
 6 #1 placed a shotgun to the head of Mr. Rogers and then struck him on both the left and right hand
 7 side of his head. The shot gun was then stuck into his back, and was held down. After he was let
 8 up, John Doe #1 jammed the gun into Paul Rogers' shoulder, fracturing it and dislocating it. He
 9 was then pepper sprayed. There was no warning, no request to move, or any other type of
 10 communication with the police prior to the attack.

11 23. At approximately 4:00 p.m. on November 30, 1999, Jean Buskin and other
 12 demonstrators were participating in a non-violent and peaceful demonstration at Fourth and Pike.
 13 The gathering was peaceful and the participants were entitled to protest their disagreement under
 14 both the United States and Washington constitution. John Doe #2 and John Doe #3 attacked the
 15 demonstration with chemical gases and pepper spray, causing the demonstrators to flee to the west.

16 24. At approximately 5:15 p.m. on November 30, 1999, Myrtise Johnson was in downtown
 17 Seattle walking Southbound on Third Avenue when she was approached by a police officer who
 18 instructed her to not to walk to the South because it had been blocked off. She then walked North
 19 and then West so that she could move to her destination to the South. As she approached 2nd
 20 Avenue, she experienced a strong fumigation of chemical gases that had been released by John Doe
 21 #4. The fumes penetrated the air in the direction she was following in. The toxins from the gases
 22 resulted in a severe burning sensation and tearing in the eyes making it extremely hard to see and a
 23 very serious burning sensation to the throat making it extremely difficult to breathe, swallow, or
 24 talk. The fumes penetrated her clothing and caused a severe rash and acne skin condition which
 25 caused her considerable pain and embarrassment for over a year. The skin condition left a
 26 hyperpigmentation that was left after the scarring from the lesions. This skin condition covered 20-

1 30% of her body. The plaintiff suffered posttraumatic stress disorder related to a disability of
 2 depression. She suffered from lingering pulmonary problems related to the inhalation of the
 3 chemical gasses. She suffered from intermittent diarrhea related to the chemical gas exposure. She
 4 suffered from serious flu symptom, fatigue, focusing of the eyes, and burning due the chemical
 5 gasses. She suffered thousands of dollars of medical bills to treat the effects of the chemical attack.

6 25. On Dec 1, 1999, at approximately 3:30 p m Plaintiff Mark Canfield was near 2nd and
 7 Lenora when a cannister of chemical gasses was fired near him by John Doe #5 causing pain and
 8 discomfort. Later on in the late evening, he was making way his back home when he had to walk
 9 through a cloud of chemical gases that had been left there by John Doe #6 and others. When he
 10 arrived at his home at 401 Harvard Ave E., apt. #3, a chemical cloud left by John Doe #7 had
 11 penetrated his apt. He could not clear the fumes from his apartment because the cloud was outside
 12 in the air as well. He experienced great pain and discomfort as he attempted to sleep in his home.
 13 He suffered lingering breathing and lung problems as a result. Plaintiff Canfield was a musician by
 14 trade, and suffered a serious and irreparable damage to his vocal chords as a result, which damaged
 15 the quality of his music. He was unable to sing for approximately 1 month.

16 26. At approximately 6:00 p.m on December 1, 1999, plaintiff Vince Halloran was on 3rd
 17 Avenue between Stewart and Pine when a line of Police officers began advancing toward him
 18 moving South. He offered to let the line pass by him but the officers insisted that he move. After
 19 being shoved he dropped to the ground and told the officers to arrest him. John Doe #8 took a
 20 cannister of pepper spray and sprayed it directly in his face. Plaintiff Halloran was then arrested,
 21 although he was later let go without being charged.

22 27. Jeanette Wallis participated in non-violent protest near her residence on Capitol Hill on
 23 the evening of December 1. She was assaulted with chemical weapons fired by John Doe #9.

24 28. Also on the evening of December 1, 1999, Jeanette Buskin was assaulted by John Doe
 25 #10 one block away from Broadway with spray. She was assaulted again on the north side of
 26 Republican on Broadway with chemical weapons.

1 29. Janet H. Munger was part of a peaceful assembly of protesters on Capitol Hill in
2 Seattle on Pine between 11th and 12th between 1 and 3 a.m. on Dec 2. She was assaulted by John
3 Doe #10, who assaulted her with chemical weapons causing her extreme pain, irritation, confusion,
4 dizziness. She became ill and missed class the next day as a result of being assaulted with the
5 chemical weapons.

6 30. Defendant City of Seattle failed to supervise the conduct of the police officer(s) who
7 assaulted Paul Rogers with a gun.

8 31. Defendant City of Seattle failed to supervise the conduct of the defendant police
9 officers who sprayed plaintiffs Jean Buskin, Paul Rogers, Myrtise Johnson, Vincent Halloran,
10 Jeanette Wallis, Janet Munger, and Mark Canfield with chemical weapons such as chemical gas
11 and pepper spray.

12 32. Defendant City of Seattle failed to train the defendant police officers who sprayed Jean
13 Buskin, Paul Rogers, Myrtise Johnson, Vincent Halloran, Jeanette Wallis, Janet Munger, and Mark
14 Canfield with chemical agents such as chemical gas and pepper spray.

15 33. The actions of defendants Schell, Stamper, and the eleven City employees and others
16 are part of an official policy, custom and practice of the City of Seattle

17 34. As a result of the acts or omissions of the City of Seattle, plaintiffs have suffered
18 personal injuries, including, but not limited to, bodily injury, pain and suffering, emotional distress,
19 embarrassment, fear and other consequential damages.

20 **III. FIRST CAUSE OF ACTION: VIOLATION OF THE FIRST AMENDMENT RIGHT**
21 **TO FREE SPEECH AS APPLIED TO THE STATES THROUGH THE FOURTEENTH**
22 **AMENDMENT TO THE UNITED STATES CONSTITUTION.**

23 35. Plaintiffs hereby incorporate and reallege as if fully set forth herein each and every
24 allegation of paragraphs 1 through 35

25 36. The acts and omissions of the defendants herein were done under color of state law,
26 custom or usage.

37 Plaintiffs Jean Buskin, Paul Rogers, Vincent Halloran, Jeanette Wallis, and Janet Munger, had a federally-protected right, under the freedom of speech and assembly provisions of the United States Constitution, as applied to the states through the Fourteenth Amendment to the United States Constitution, to be present in downtown Seattle and protest the undemocratic and wrongful policies of the W T.O. and/or the brutal tactics of the police

38. The acts and omissions of defendants herein proximately caused the deprivation of the First Amendment rights of plaintiffs Jean Buskin, Paul Rogers, Vincent Halloran, Jeanette Wallis, and Janet Munger, as applied to the states through the Fourteenth Amendment to the United States Constitution

39. As a proximate result of the acts and omissions of the defendants and the deprivation of their First and Fourteenth Amendment rights, plaintiffs Jean Buskin, Paul Rogers, Vincent Halloran, Jeanette Wallis, and Janet Munger, have suffered personal injuries as set forth hereinabove.

**SECOND CAUSE OF ACTION: VIOLATION OF THE
FOURTH AMENDMENT PROHIBITION AGAINST UNREASONABLE SEIZURES**

40. Plaintiffs hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 75.

41. Plaintiff Jean Buskin as well as the other named plaintiffs were seized for the purposes of the Fourth Amendment to the United States Constitution as applied to the states through the Fourteenth Amendment to the United States Constitution, by the acts and omissions of the defendants.

42. Plaintiff Jean Buskin, as well as the other named plaintiffs, have rights, protected under the Fourth Amendment of the United States Constitution as applied to the states through the Fourteenth Amendment to the United States Constitution, not to be subjected to an unreasonable seizure

1 43. The acts and omissions of the defendants herein proximately caused the deprivation of
2 the Fourth and Fourteenth Amendment rights of plaintiff Jean Buskin, as well as the other named
3 plaintiffs

4 44. As a proximate result of the acts and omissions of the defendants and deprivation of
5 plaintiffs' Fourth and Fourteenth Amendment rights, plaintiffs have suffered personal injuries as
6 set forth hereinabove.

7 **THIRD CAUSE OF ACTION; VIOLATION OF FOURTH AMENDMENT PROHIBITION**
8 **AGAINST THE USE OF UNREASONABLE FORCE**

9 45. Plaintiffs hereby incorporate and reallege each and every allegation of paragraphs 1
10 through 44, as if fully set forth herein

11 46 Plaintiff Jean Buskin, as well as the other named plaintiffs have a right, under the
12 Fourth amendment of the United States Constitution as applied to the states through the Fourteenth
13 Amendment to the United States Constitution, not to be subjected to the use of unreasonable force
14 against their persons.

15 47. The acts and omissions of the defendants herein proximately caused the deprivation of
16 the Fourth Amendment Rights as applied to the States through the Fourteenth Amendment to the
17 United States Constitution, of plaintiff Jean Buskin, as well as the other named plaintiffs

18 48. As a proximate result of the acts and omissions of the defendants and deprivation of
19 plaintiffs' Fourth Amendment rights as applied to the states through the Fourteenth Amendment to
20 the United States Constitution, plaintiffs have suffered personal injuries as set forth hereinabove

21 **FOURTH CAUSE OF ACTION: VIOLATION OF THE FOURTEENTH AMENDMENT**
22 **DUE PROCESS CLAUSE**

23 49. Plaintiffs hereby incorporate and reallege each and every allegation of paragraphs 1
24 through 48, as if fully set forth herein.

25 50. Plaintiffs Jean Buskin, Paul Rogers, Vincent Halloran, Jeanette Wallis, and Janet
26 Munger have a right, under the Due Process Clause of the Fourteenth Amendment to the United

States Constitution, to remain in a public place of their choice and the right to move from one place to another in order to protest the actions of the police and of the W T O.

51. The other named plaintiffs have a right, under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, to remain in a public place of their choice and the right to move from one place to another.

52 The acts and actions of the defendants herein proximately caused the deprivation of plaintiffs' Fourteenth Amendment rights.

53. As a proximate result of the acts and omissions of the defendants and deprivation of plaintiffs' Fourth Amendment rights, plaintiffs have suffered personal injuries as set forth hereinabove.

**FIFTH CAUSE OF ACTION: VIOLATION OF THE FOURTEENTH AMENDMENT
RIGHT TO PERSONAL SECURITY**

54 Plaintiffs hereby incorporate and reallege each and every allegation of paragraphs 1 through 53, as if fully set forth herein.

55 Plaintiff Jean Buskin, as well as the other named plaintiffs have a right, under the Fourteenth Amendment to the United States Constitution, to personal security

56. The acts and omissions of the defendants caused deprivation of plaintiffs' Fourteenth Amendment rights to personal security

SIXTH CAUSE OF ACTION: MUNICIPAL LIABILITY OF THE CITY OF SEATTLE

57 Plaintiffs hereby incorporate and reallege each and every allegation of paragraphs 1 through 56, as if fully set forth herein.

58. At all times material to this complaint, defendant City of Seattle, by and through its chief of police, defendant Norm Stamper, had in effect certain explicit and de facto policies, practices and customs which were applied to the treatment of civilians in downtown Seattle during the W T.O. meetings, including the use of chemical weapons, rubber bullets, wooden batons,

1 against innocent civilians such as plaintiff Jean Buskin, as well as the other named plaintiffs
2 herein.

3 59. For purposes of the incidents described herein, it was the policy, custom and practice of
4 the defendant City of Seattle to utilize unreasonable force in violation of the First, Fourth, and
5 Fourteenth Amendment rights of the plaintiffs, set forth hereinabove

6 60 It was further the policy of the defendant City of Seattle, by and through its chief of
7 police, defendant Norm Stamper, to approve, acquiesce, condone and ratify the use of unreasonable
8 force in violation of the First, Fourth and Fourteenth Amendment rights of the plaintiffs in the
9 incidents described hereinabove.

10 61. For purposes of liability for said policies, practices and/or customs, defendant Norm
11 Stamper was the authorized policy-maker on police matters and his decisions, explicit and de facto
12 were and are binding on the defendant City of Seattle.

13 62. The policy, practice and custom of approving, acquiescing in condoning and/or
14 ratifying the use of unreasonable force in violation of the First, Fourth and Fourteenth Amendment
15 rights of the plaintiffs in the incident described herein was a deliberate choice by defendant City of
16 Seattle, by and through its chief of police.

17 63. These policies, practices and customs were maintained with deliberate, reckless and/or
18 callous indifference to the constitutional rights of the plaintiffs as set forth hereinabove

19 64. The above described policies, practices and customs of defendant City of Seattle
20 proximately caused the deprivation of the First, Fourth and Fourteenth Amendment rights of the
21 plaintiffs, jointly and severally

22 65. As a proximate result of the above the above described policies, practices and customs
23 of defendant City of Seattle, and as a result of the deprivation of plaintiffs' First, Fourth and
24 Fourteenth Amendment rights, plaintiffs have suffered personal injuries as set forth hereinabove

25 66. At all times material herein, defendant City of Seattle had a duty, under the United
26 States Constitution, to supervise its police officers properly.

67 At all times material herein, defendant City of Seattle had a duty, under the Fourth Amendment of the United States Constitution, to adequately train its police officers not to attack innocent people with chemical weapons, and/or rubber bullets

68 Defendant City of Seattle failed to train properly or supervise properly the officers who shot chemical gas, chemical agents, concussion grenades, and/or pepper spray at plaintiff Jean Buskin and the other named plaintiffs.

69. The above-described failures to supervise and to train were maintained with deliberate, reckless and/or callous indifference to the constitutional rights of rights of the plaintiffs as set forth hereinabove.

70 The above-described failures by defendant City of Seattle to supervise and to adequately train the officers properly proximately caused the deprivation of the constitutional rights of plaintiff Jean Buskin and the other plaintiffs as set forth hereinabove

71. The above-described failure by defendant City of Seattle to properly supervise and to adequately train the officers and the resulting deprivation of plaintiff Jean Buskin and the other plaintiffs' constitutional rights, caused the plaintiffs to suffer personal injuries as set forth hereinabove.

SEVENTH CAUSE OF ACTION - ASSAULT AND BATTERY

72. Plaintiffs hereby incorporate and reallege each and every allegation of paragraphs 1 through 71., as if fully set forth herein

73. Plaintiffs Jean Buskin, Myrtise Johnson, Vincent Halloran, Jeanette Wallis, and Mark Canfield were assaulted and battered by defendants

74. Plaintiffs Jean Buskin, Myrtise Johnson, Vincent Halloran, Jeanette Wallis, and Mark Canfield have been assaulted and battered by defendant City of Seattle, through its employees John Doe #1 through John Doe #11

75. Defendant City of Seattle is liable for the actions of its employees through the doctrine of respondent superior.

76. Plaintiffs Jean Buskin, Myrtise Johnson, Vincent Halloran, Jeanette Wallis, and Mark Canfield have been damaged as a direct, proximate and foreseeable result of the wrongful actions of the defendants.

EIGHTH CAUSE OF ACTION - NEGLIGENCE

77. Plaintiffs hereby incorporate and reallege each and every allegation of paragraphs 1 through 76., as if fully set forth herein

78 The defendants were negligent in their actions taken against Plaintiffs Jean Buskin,
Myrtise Johnson, Vincent Halloran, Jeanette Wallis, and Mark Canfield

79. Plaintiffs Jean Buskin, Myrtise Johnson, Vincent Halloran, Jeanette Wallis, and Mark Canfield have been damaged as a direct, proximate and foreseeable result of the negligent actions of the defendants.

**NINTH CAUSE OF ACTION - VIOLATION OF DUE PROCESS RIGHTS UNDER
STATE CONSTITUTION**

80 Defendants actions of releasing chemical weapons into public demonstrations or gatherings, shooting projectiles including chemical weapon containers into public demonstrations or gatherings, denied Plaintiffs Jean Buskin, Myrtise Johnson, Vincent Halloran, Jeanette Wallis, and Mark Canfield due process of law under Article 1, Section 3 of the Washington State Constitution

81. The plaintiffs have been damaged as a direct, proximate and foreseeable result of the wrongful actions of the defendants of releasing chemical weapons into public gatherings and by shooting projectiles into public demonstrations or gatherings.

1 **TENTH CAUSE OF ACTION - VIOLATION OF FREE SPEECH RIGHTS UNDER**
2 **STATE CONSTITUTION**

3 82. Defendants actions of releasing chemical weapons into public demonstrations or
4 gatherings, shooting projectiles including chemical weapon containers into public demonstrations
5 or gatherings, denied Plaintiffs Jean Buskin, Vincent Halloran, and Jeanette Wallis their free
6 speech rights under Article 1, Section 5 of the Washington State Constitution

7 83. The plaintiffs have been damaged as a direct, proximate and foreseeable result of the
8 wrongful actions of the defendants of releasing chemical weapons into public gatherings and by
9 shooting projectiles into public demonstrations or gatherings

10 **ELEVENTH CAUSE OF ACTION - VIOLATION OF PRIVACY RIGHTS UNDER**
11 **STATE CONSTITUTION**

12 84. Defendants actions of releasing chemical weapons into public demonstrations or
13 gatherings, shooting projectiles including chemical weapon containers into public demonstrations
14 or gatherings, denied Plaintiff Canfield his right of privacy as defined by Article 1, Section 7 of the
15 Washington State Constitution

16 85 Plaintiff Canfield has been damaged as a direct, proximate and foreseeable result of the
17 wrongful actions of the defendants of releasing chemical weapons into public gatherings and by
18 shooting projectiles into public demonstrations or gatherings.

19 **TWELFTH CAUSE OF ACTION -STRICT LIABILITY**

20 86. Defendants actions of releasing chemical weapons into public demonstrations or
21 gatherings, shooting projectiles including chemical weapon containers into public demonstrations
22 or gatherings, is ultrahazardous or abnormally dangerous and subject the defendants to strict
23 liability.

24 87. The plaintiffs have been damaged as a direct, proximate and foreseeable result of the
25 wrongful actions of the defendants of releasing chemical weapons into public gatherings and by
26 shooting projectiles into public demonstrations or gatherings

27 **VI. CLASS ACTION ALLEGATIONS**

1 88. Plaintiffs reallege paragraphs 1 through 81 herein.

2 89. This class action is brought on behalf of all persons present in the streets, sidewalks,
3 and open areas at the aforementioned locations and resulting police action. It is also being brought
4 on behalf of the residents of the Capitol Hill Area of Seattle. The class will be defined in time and
5 space with more particularity after more discovery is conducted. This suit seeks damages for all
6 wrongful actions of the defendants as described in this complaint, except for those actions that are
7 being litigated in other class action lawsuits already filed in Washington concerning the WTO
8 demonstrations in 1999.

9 90. Prerequisites for Class Action. Plaintiffs bring this action pursuant to Federal Rule of
10 Civil Procedure 23 as a class action on behalf of themselves and also as a representative party on
11 behalf of all members of the class described in the above paragraph. This is an appropriate class
12 action under FRCP 23(a) and plaintiffs are proper representatives of the class because:

13 91. The class is so numerous that joinder of all members is impracticable. Upon
14 information and belief, the number of constituent class members exceeds 5000 members.
15 Attempting to join and name in excess of 5000 persons as co-plaintiffs would be unreasonable and
16 would be impracticable as that term is contemplated by FRCP 23(a). The requirement of
17 numerosity under FRCP 23(a)(1) is therefore satisfied.

18 92. There are questions of law and fact common to the class. The defendants used similar
19 methods to stifle dissent of a large number of demonstrators, residents and onlookers.

20 93. The claims of the representative parties is typical of the claims of the class as a whole.
21 This creates similar or identical claims on behalf of all members of the class. This satisfies FRCP
22 23 (a)(3) regarding typicality of claims.

23 94. The representative parties will fairly and adequately protect the interests of the class.
24 Petitioner will conduct a vigorous prosecution of this action and is further in a position to represent
25 the claims.

1 95. Class Action Maintainable This action is maintainable as a class action under FRCP
2 23(b) because.

3 96. The prosecution of separate actions by individual members of the class would create a
4 risk of inconsistent or varying adjudications, which would establish incompatible standards of
5 conduct for the City of Seattle and which would also create a risk of adjudication with respect to
6 individual members of the class which would, as a practical matter be dispositive of the interests of
7 other persons who are not parties to the adjudication or substantially impair or impede their ability
8 to protect their interests , in satisfaction of FRCP 23(b)(1).

9 97. The questions of law and fact common to the class members predominate over any
10 questions affecting only individual members, and a class action is superior to other available
11 methods for the fair and efficient adjudication of the controversy, in that,

12 98. There is no special interest in members of the class in individually controlling the
13 prosecution of separate actions;

14 99. Plaintiffs do know of other proper litigation concerning this controversy which has
15 been commenced by members of the class, in whole or in part. One suit has been filed in Western
16 District Court as case #C00-1672R. That suit seeks to certify a class that is defined as follows:

17 All persons who were arrested by the City of Seattle and its police agents or its
18 affiliated police agents on December 1 and 2, 1999, pursuant to the defendant' "no
19 protest" policies and directives which were eventually embodied by the City of
20 Seattle' local Proclamation of Civil Emergency Order Number 3 (and subsequent
21 revisions) and who were subsequently not convicted of any crime Included in this
22 class are all persons arrested pursuant to such policies both inside and outside the
23 zone established by Order Number 3.

24 Another suit has been filed in Western District Court as case # C01-1309L. That suit seeks
25 to certify a class defined as follows:

26 ... all persons present in the streets, sidewalks, and open areas at the site of the
27 aforementioned demonstration and resulting police action. The class will be defined
28 in time and space as follows. The time boundary will be between 2:30 p.m. and
29 6:30 p.m. on December 1, 2001. The space boundary will be Alaskan Way on the

1 West, 4th Avenue on The East, Lenora Street on the North and Union Street on the
2 South.

3 100 It is highly desirable and efficient to have this litigation determined by class action
4 within this forum. The majority of class members, upon information and belief, work, worked,
5 resided and/or reside in King County. It is eminently preferable to seek redress of these common
6 claims under one action rather than through multiple claims involving impractical management and
7 an overburdening of the courts. These concerns satisfy FRCP 23(b)(3)

8 101. As a result of the actions of the defendant(s) as above alleged, the plaintiffs have been
damaged in an amount to be proven at trial.

9 **INJUNCTIVE RELIEF**

10 102. The Plaintiffs are entitled to injunctive relief because the continued use of "Less
11 Lethal" weapons as used in this complaint could result in irreparable harm in terms of death or
12 serious bodily injury.

13 **CLASS CLAIMS FOR RELIEF**

14 **A. CAUSE OF ACTION BASED UPON 42 USC 1983.**

15 103. Plaintiffs repeat, reallege, and incorporate by reference paragraphs 1 through 102
herein.

16 104. The defendants violated the rights of plaintiffs and other members of the class under
17 the First, Fourth and Fourteenth Amendments to the United States Constitution and were in
18 violation of 42 U S C. §1983. Defendants' violations include, but are not limited to the following:
19 Shooting rubber bullets, concussion grenades, macing, tear gassing, pepper spraying, beating,
20 torturing, using other chemical agents, humiliating, degrading, wrongfully arresting and otherwise
21 terrorizing the demonstrators and intimidating others from demonstrating

22 105. As a result of the violations of 42 USC §1983, as set forth herein, the defendants are
23 liable to the plaintiffs and to members of the class defined herein for their actual damages, statutory
24 damages, costs and attorney fees.
25

PRAYER FOR RELIEF

The Defendants actions set forth herein constitute an egregious, willful and malicious violation of section of 42 USC §1983.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and in favor of the class for:

- (A) Order defendants to pay to plaintiffs compensatory damages in an amount to be proven at trial
- (B) Order defendants to pay to plaintiffs punitive damages.
- (C) Order defendants to pay plaintiffs' reasonable attorney fees, and costs
- (D) Enjoin the defendants from pepper spraying, beating, using chemical agents, shooting projectiles, hurling projectiles or taking any other unreasonable use of force against demonstrators participating in peaceful demonstrations.
- (E) Order such other and further relief as the court may deem to be just and proper.

DATED this 30 day of November, 2001,


John R. Scannell, WSBA #31035
Attorney for plaintiffs